

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER PERALES,)	
Plaintiff,)	
)	No. 1:23-cv-35
-v-)	
)	Honorable Paul L. Maloney
MICHIGAN STATE HOUSING)	
DEVELOPMENT AUTHORITY,)	
Defendant.)	
_____)	

ORDER DISMISSING ACTION

Plaintiff Christopher Perales submitted a “to whom it may concern” letter along with an application to proceed without prepayment of fees. Upon receipt of the two documents, the Clerk opened this lawsuit. The Magistrate Judge granted Plaintiff’s request to proceed in forma pauperis. The Magistrate Judge then issued a report recommending that the Court dismiss this lawsuit for failing to state a claim (ECF No. 7). Plaintiff submitted a document that has been docketed as his objections (ECF No. 9).

Plaintiff now requests that he be permitted to withdraw or dismiss this lawsuit (ECF No. 10). He expresses an interest in refiling the lawsuit in state court with the assistance of counsel. Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure permits a plaintiff to voluntarily dismiss his or her lawsuit before the opposing party files an answer or files a motion for summary judgment. Defendant has not been served with a summons and the complaint and has not filed any answer or motion. A Rule 41(a)(1)(i) dismissal is self-executing. *In re Matthews*, 395 F.3d 477, 480 (4th Cir. 2005) *Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003). The Sixth Circuit Court of Appeals found no problem with the

dismissal of a lawsuit under similar circumstances—the Magistrate Judge had issued a report recommending dismissal of the action, the plaintiff initially filed objections and then filed a request to dismiss under Rule 41(a)(1). *See Burke v. Morris*, 838 F.2d 470 (6th Cir. 1988) (unpublished table opinion).

Accordingly, the Court **DISMISSES** this action without prejudice. The Court **DISMISSES AS MOOT** Plaintiff's pending motion for a hearing (ECF No. 6) and the Report and Recommendation (ECF No. 7). **IT IS SO ORDERED.**

Date: March 28, 2023

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge